

MOTION BY SUPERVISORS GLORIA MOLINA AND
MICHAEL ANTONOVICH

October 24, 2006

AMENDING MOTION TO ITEM NO. 25D

Since January 2003, the Board of Supervisors has taken responsible and proactive steps to manage and control the County's legal fees and costs. As part of our efforts, the Board has insisted on the implementation of specific policies and procedures to ensure that the County receives high-quality, directed and effective representation from both in-house and outside counsel that is also cost-effective. For example, we approved a new computer system called RMIS to enable County Counsel to better monitor case status and costs, and to produce reports in an efficient manner. We also approved the new position of Litigation Cost Manager whose responsibility is to participate in the planning and direction of litigation strategy—with a focus on cost-effectiveness—to conduct reviews of all internal and external litigation costs, to track litigation, and to monitor and report annually on progress.

By all accounts, our efforts have been very successful. We have brought our litigation costs down from a high of \$62.7 million in FY 2001-2002 to a low of \$26.3 million in FY 2003-2004, a 58.4% decrease. Now, after two consecutive years of declining litigation costs, we are seeing an over 50% increase in costs to \$40,874,631 in FY 2005-2006. Moreover, on October 11, 2006, we were informed that Robert Nagle, the person hired for the Board-created Litigation Cost Manager position, was summarily terminated.

MOTION

Molina	_____
Burke	_____
Yaroslavsky	_____
Knabe	_____
Antonovich	_____

On October 16, 2006, each Board office received a letter from Mr. Nagle that contained serious allegations of mismanagement by County Counsel including failure to provide the Board with critical litigation management information and failure to fully implement litigation management policies and procedures, all of which may have resulted in a potential cost to the County of millions of dollars. These allegations presented by Mr. Nagle, if true, are extremely distressing and must be investigated immediately. It is also equally important to establish whether these allegations are not true in order to reclaim confidence in the Office of County Counsel and ensure that its credibility remains untarnished.

As fiduciaries of the public trust, it is our responsibility to ensure a thorough, accurate and unbiased review of these claims by a highly credible, external and independent reviewer unaffiliated with the County or with Mr. Nagle and who is widely respected as fair and impartial.

WE, THEREFORE, MOVE THAT THE BOARD OF SUPERVISORS

1. Direct the CAO to hire and negotiate a flat rate contract with an Independent Investigator with substantial litigation experience, within two weeks; and
2. The Independent Investigator is to investigate the specific allegations contained in Mr. Nagle's October 16, 2006 letter to the Board of Supervisors and report back within 45 days; and
3. Request that County Counsel suspend any organizational or personnel changes that would affect either the position of Litigation Cost Manager or the policies and procedures regarding Litigation Cost Management, until the Board receives the report from the Independent Investigator.

MIJ/jp